

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

Case No. 19-01325

TRAVINIA ITALIAN KITCHEN AT
RICHMOND, LLC

Chapter 7

Debtor

Related to Doc. No. 5

Hearing: April 9, 2019, at 9:00 A.M.

**REINHART FOODSERVICE, L.L.C.'S LIMITED OBJECTION TO TRUSTEE'S
APPLICATION FOR SALE OF PROPERTY FREE AND CLEAR OF LIENS**

Reinhart Foodservice, L.L.C. ("Reinhart"), by its undersigned attorneys, hereby files this limited objection to the Trustee's Application for Sale of Property Free and Clear of All Liens (Docket no. 5; the "Motion"), and in support thereof states as follows:

BACKGROUND

1. This court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is appropriate in this court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. On March 6, 2019 (the "Petition Date"), Travinia Italian Kitchen at Leesburg, LLC (the "Debtor") filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et. seq.* (the "Bankruptcy Code").
3. John Fort (the "Trustee") is the duly appointed Chapter 7 trustee for the Debtor. The Trustee sought and received permission to continue to operate the business of the debtor for a period of 90 days. See Order to Operate Business dated March 26, 2019 (Docket no. 16).

4. Prior to the Petition Date, Reinhart supplied the Debtor with certain goods, in the form of food and food products. Reinhart continues to supply goods to the manager that continues to operate the Debtor's restaurant on a cash-in-advance basis.

5. According to Reinhart's records,¹ the Debtor owes Reinhart approximately \$71,147.64 for goods provided prior to the Petition Date. Of this amount, Reinhart estimates that \$17,779.51 is for goods provided to the Debtor in the ordinary course of business within twenty days of the Petition Date, such that Reinhart will be entitled to an administrative priority claim for that amount pursuant to 11 U.S.C. § 503(b)(9) (the "503(b)(9) Claim"). Reinhart's statement of account for the Debtor, where the goods that comprise the 503(b)(9) Claim are indicated with an asterisk ("*"), is attached hereto as **Exhibit A**.

LIMITED OBJECTION AND ARGUMENT

6. The Motion was filed on the second day of the case. The Motion itself is only 2 pages long; there is no proposed asset purchase agreement submitted for creditor review or for court approval. According to the Motion, net of Trustee's compensation, the sale is expected to net approximately \$40,250, after (discounted) payments to secured creditors.

7. There is no mention of the Reinhart 503(b)(9) Claim anywhere in the Motion; in fact, there is no reference to possible 503(b)(9) claims at all. While Reinhart generally understands the exigencies of the case, the fact remains that unless an agreement is reached over the treatment of administrative claims, including the Reinhart 503(b)(9) Claim, this case is at risk for administrative insolvency.

¹ The figures stated are preliminary amounts. Reinhart continues to review its records and reserves the right to amend or modify the amounts claimed, both as a total amount and as entitled to priority under § 503(b)(9).

8. It may be that the proposed asset purchase agreement includes a provision for the payment of 503(b)(9) claims. However, from the Motion, Reinhart has no information to conclude that is the case. Moreover, while Reinhart has engaged in initial discussions with the Trustee about its 503(b)(9) Claim, no agreement has been reached as of the filing of this objection. At a minimum, if Reinhart's 503(b)(9) is not going to be paid from the sale proceeds, funds should be segregated from the proceeds of the sale to assure payment of allowed administrative claims, including the Reinhart 503(b)(9) Claim.

9. To be clear, Reinhart intends to continue to engage in discussions with the Trustee and other parties in interest in an effort to resolve the issues raised herein. Pending any final agreement on such issues, Reinhart respectfully reserves all rights.

WHEREFORE, Reinhart requests that the relief requested in the Motion be qualified and limited as set forth above, and that the court grant such other and further relief as appropriate.

Dated: March 28, 2019.

Respectfully submitted,
JOHNSON, SMITH, HIBBARD & WILDMAN
LAW FIRM, L.L.P.

By: /s/ Donna Faye Shetley
Donna Faye Shetley, #3823
Johnson, Smith, Hibbard & Wildman Law Firm, LLP
Post Office Drawer 5587
Spartanburg, South Carolina 29304-5587
Telephone: (864) 582-8121
Facsimile: (864) 585-5328
Email: dshetley@jshwlaw.com

Samuel C. Wisotzkey, Esq.
Wisconsin Bar No. 1029537
KOHNER, MANN & KAILAS, S.C.
Washington Building
4650 N. Port Washington Rd.
Milwaukee, WI 53212-1059
Telephone (414) 962-5110

Facsimile (414) 962-8725
swisotzkey@kmksc.com
Attorneys for Creditor
Reinhart Foodservice, L.L.C..

Reinhart
Get it right from us.
Reinhart Foodservice, L.L.C.
1201 Progress Road
Suffolk, VA 23434

Ship To Address: Travinia-Richmond
1601 Willow Lawn Dri
Richmond, VA 23230

Statement Date	03/08/19
Customer Account Number	65668
Total Amount Due: \$71,147.64	

TRAVINIA - BILL TO
301 MARKET CENTER DR
MORRISVILLE, NC 27560

Remit to:
Reinhart Foodservice, L.L.C.
1201 Progress Road
Suffolk, VA 23434

Terms : 0 Day

Credits shown on this statement have been reflected in the balance due amount.

65849 : Travinia-Richmond
Ste 800 Richmond, VA 23230

52065849

DATE	DOCUMENT TYPE	DOCUMENT NUMBER	ORIGINAL AMOUNT	APPLIED AMOUNT	DUE DATE	BALANCE DUE
09/29/18	Credit Memo	647721	-24.58		09/30/18	-24.58
01/10/19	Credit Memo	675829	-30.39		01/11/19	-30.39
01/12/19	Credit Memo	676320	-30.39		01/13/19	-30.39
02/06/19	Credit Memo	682895	-43.35		02/07/19	-43.35
02/06/19	Credit Memo	682896	-37.43		02/07/19	-37.43
02/06/19	Credit Memo	682897	-6.45		02/07/19	-6.45
02/06/19	Credit Memo	682898	-6.45		02/07/19	-6.45
02/06/19	Credit Memo	682899	-6.45		02/07/19	-6.45
02/06/19	Credit Memo	682900	-6.45		02/07/19	-6.45
02/06/19	Credit Memo	682901	-6.45		02/07/19	-6.45
02/06/19	Credit Memo	682902	-19.35		02/07/19	-19.35
01/02/19	Invoice	672839	1,853.33		02/16/19	1,853.33
02/15/19	Credit Memo	685417	-37.27		02/16/19	-37.27
01/04/19	Invoice	673476	4,787.61		02/18/19	4,787.61
01/08/19	Invoice	674566	2,810.65		02/22/19	2,810.65
01/11/19	Invoice	676138	3,856.08		02/25/19	3,856.08
01/15/19	Invoice	676463	973.71		03/01/19	973.71
01/18/19	Invoice	678031	4,680.00		03/04/19	4,680.00
01/22/19	Invoice	678352	2,791.62		03/08/19	2,791.62
03/08/19	Invoice	691434	6,467.31		03/09/19	6,467.31
01/25/19	Invoice	679898	4,953.54		03/11/19	4,953.54
01/29/19	Invoice	680750	6,713.99		03/15/19	6,713.99
02/01/19	Invoice	681658	1,119.61		03/18/19	1,119.61
02/05/19	Invoice	682179	2,052.71		03/22/19	2,052.71
02/05/19	Invoice	682698	178.45		03/22/19	178.45
02/08/19	Invoice	683623	2,950.27		03/25/19	2,950.27
02/12/19	Invoice	684550	7,113.10		03/29/19	7,113.10
02/13/19	Invoice	684685	321.16		03/30/19	321.16
02/15/19	Invoice	685580	2,216.89		04/01/19	2,216.89
02/19/19	Invoice	686168	3,375.10		04/05/19	3,375.10
02/22/19	Invoice	687507	3,090.05		04/08/19	3,090.05
02/26/19	Invoice	688310	5,880.00		04/12/19	5,880.00
03/01/19	Invoice	689388	3,217.47		04/15/19	3,217.47

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Past Due	\$18,706.37
Current	\$52,441.27
Balance Due	\$71,147.64

Amount Enclosed \$ _____

Please provide your Customer Account Number and all Document Numbers paid on your remittance.

Payments received within 3 business days before the statement date may not be reflected on this statement.

If you have questions regarding amounts due on your statement, please contact the credit department at (608) 793-9441 or (800) 827-4020 x500441.

If you have any other questions, please contact your local customer service department at (757) 538-8000 or (800) 868-4517.

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Chapter 7

Debtor

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 28th day of March, 2019, I have caused a copy of *Reinhart Foodservice, L.L.C.'s Limited Objection to Trustee's Application for Sale of Property Free and Clear of Liens* upon attorneys for the parties, or individuals shown below by depositing a copy of the same in the United States Mail, postage prepaid, in the correct amount and addressed to the last known address(es), and was served electronically through CM/ECF, as permitted by Operating Order, and as follows:

Travinia Italian Kitchen at
Richmond, LLC
1200 Woodruff Rd., C-36
Greenville, SC 29607

Adam J. Floyd, Esq.
Beal, LLC
1301 Gervais St., Ste. 1040
Columbia, SC 29201

John K. Fort,
United States Trustee
P.O. Box 789
Drayton, SC 29333

Office of U.S. Trustee
Strom Thurmond Federal Bldg.
1835 Assembly St., Ste. 953
Columbia, SC 29201

/s/ Donna Faye Shetley
